

## REMARKS

This is intended as a full and complete response to the Office Action dated February 17, 2009, having a shortened statutory period for response set to expire on May 17, 2009. Applicants respectfully request entry and consideration of the above noted amendments and the following remarks in response to the Office Action.

### CLAIM REJECTIONS:

Claims 20 and 23 stand rejected under 35 U.S.C. §112, second paragraph. Applicants have clarified terms in claims 20 and 23 and respectfully request withdrawal of the rejection.

Claims 8-21 and 24-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,302,554 (*Nabeta*) in view of EP 1312624 (*Marechal*).

Applicants respectfully submit that neither reference teaches or suggest a homogenous blend, as required by the pending claims. In addition, the Office Action acknowledges that “Nabeta does not specifically recite the use of a metallocene-catalyst ethylene polymer” and that the Office Action asserts that “Marechal discloses the use of a bridged metallocene catalyst...for the production of a low density polyethylene”. However, Applicants respectfully submit that even if the catalyst of *Marechal* were combined with the teachings of *Nabeta*, the claimed features (a homogenous blend of a metallocene catalyzed ethylene polymer and a styrene-butadiene block copolymer) provide significant and unexpected improvements in peelable films. Specifically, the use of metallocene catalyzed polyethylene, utilized in combination with the claimed block copolymer, provides unexpectedly improved peelability over other types of catalyzed polyethylene (*see*, examples showing that the adhesion of the film F1 whose seal layer was made with the blend according to the invention could be improved by increasing the sealing temperature at 175°C whereas at this temperature, the comparative films melted and broke). Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 8-11, 13-14, 16-18 and 23-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,022,612 (*Wilkie*) in view of K RESIN<sup>®</sup> DK11 Product Data Sheet. Claims 12 and 15 stand rejected under 35 U.S.C. §103(a) as being

unpatentable over *Wilkie* in view of K RESIN<sup>®</sup> DK11 Product Data Sheet and EP 1312624 (*Marechal*).

Applicants respectfully submit the references of record do not teach, show or suggest a homogenous blend, as required by the pending claims. In addition, the Office Action acknowledges that “*Wilkie* does not teach the use of a styrene/butadiene/styrene block copolymer wherein the amounts of styrene and butadiene fall within the claimed ranges”. However, the Office Action asserts that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the composition disclosed by *Wilkie* by substituting the commercially available K Resin...for the thermoplastic rubber component of *Wilkie*”. Applicants respectfully disagree.

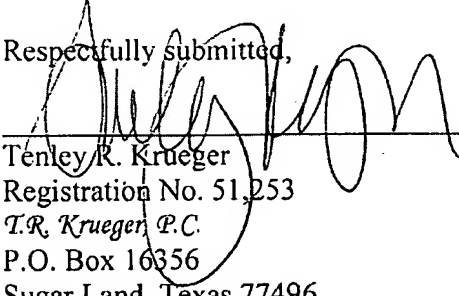
To establish a *prima facie* case, the PTO must satisfy three requirements. First, the prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or to combine references. *See, Karsten Mfg. Corp. v. Cleveland Gulf Co.*, 242 F.3d 1376, 1385, 58 U.S.P.Q.2d 1286, 1293 (Fed. Cir. 2001). As demonstrated by the Product Data Sheet, K RESIN<sup>®</sup> exhibits high surface gloss. However, *Wilkie* is directed towards providing a matte-finish surface. Accordingly, Applicants respectfully submit that there would have been no motivation to modify the teachings of *Wilkie* with the K RESIN<sup>®</sup>.

Furthermore, it is well established that if a proposal for modifying the prior art in an effort to attain the claimed invention causes the art to become inoperable or destroys its intended function, then the requisite motivation to make the modification would not have existed. *See, In re Fritch*, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992), *In re Ratti*, 270 F.2d 810, 813, 123 U.S.P.Q. 349, 352 (C.C.P.A. 1959) (holding the suggested combination of references improper because it “would require a substantial reconstruction and redesign of the elements shown in [a prior art reference] as well as a change in the basic principles under which [that reference’s] construction was designed to operate”). Applicants respectfully submit that modifying the teachings of *Wilkie* with the K RESIN<sup>®</sup> would destroy the intended function to provide a matte finish in *Wilkie*.

The prior art made of record is noted. However, it is believed that the secondary references do not supply the features missing from the primary reference cited in the Office Action. Therefore, it is believed that a detailed discussion of the secondary references is not deemed necessary for a full and complete response to this Office Action. Accordingly, Applicants respectfully request withdrawal of the rejections.

In conclusion, Applicants submit that the references cited in the Office Action, neither alone nor in combination, teach, show, or suggest the claimed features. Having addressed all issues set out in the Office Action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request the same.

Respectfully submitted,



Tenley R. Krueger  
Registration No. 51,253  
*T.R. Krueger P.C.*  
P.O. Box 16356  
Sugar Land, Texas 77496  
Telephone: 281-778-8934  
Facsimile: 281-778-8937  
Attorney for Applicant(s)